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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,444	04/06/2001	Curt V. Avallone	55,279 (20786)	6897
26587	7590	04/07/2004	EXAMINER	
MCNEES, WALLACE & NURICK 100 PINE STREET P.O. BOX 1166 HARRISBURG, PA 17108-1166			BACKER, FIRMIN	
		ART UNIT	PAPER NUMBER	
		3621		

DATE MAILED: 04/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/828,444	AVALLONE ET AL.
	Examiner	Art Unit
	Firmin Backer	3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 February 2004.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 44-80 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 44-80 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

***Response to Amendment***

This is in response to an amendment file on February 28<sup>th</sup>, 2004. In the amendment, claim 1-29 have been canceled, and claims 44-80 have been added. Claims 44-80 are pending in the letter.

***Response to Arguments***

1. Applicant's arguments with respect to claims 44-80 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 44-80 rejected under 35 U.S.C. 102(e) as being anticipated by Drysdale et al. (U.S. PG Pub No. 2003/0021242)

The applied reference has a common inventors with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

4. As per claim 44 and 68, Drysdale et al teach a system (*facility communication system, fig 1*) for providing personalized information (*targeted electronic communication*) to a user (*user, 22*) in a commercial establishment (*commercial establishment, fig 1*), the system comprising at least one database (*storage location 42*) storing information related to a user, a portable display unit (*personal wireless device, 12*) operated by a user in a commercial establishment, the portable display unit having a unique identifier, and the portable display unit comprising a transceiver (*transceiver device 14*) at least one database, a user interface, a display screen, a microprocessor, and at least one program executable by the microprocessor to enable the portable display unit to receive, store, and display information to a user in a commercial establishment (*see figs 1, paragraphs 0025-0032*), a location tracking system (*sensing device 20*) to determine (*sense*) a location (*approximate distance*) of the portable display unit in a commercial establishment (*see fig 1, paragraphs 0026-0027*), a server computer (*communication system, 18*), the server computer being in communication with the location tracking system and the at least one database and the server computer being configured to generate personalized information (*user specific information 40*) for a user in a commercial establishment based on the

location (*proximity*) of the portable display unit and the information related to a user stored in the at least one database; and at least one transceiver in communication with the server computer for transmitting the personalized information generated by the server computer to the portable display unit (*see paragraphs 0031, 0032*).

5. As per claim 45, 71, Drysdale et al teach a system for providing personalized information wherein the portable display unit comprises a user identification system to determine an identity of a user operating the portable display unit; and the server computer is configured to generate personalized information for an identified user based on the location of the portable display unit, the identity of the user and the information related to a user stored in the at least one database (*see paragraphs 0031, 0032*).

6. As per claim 46, 74, Drysdale et al teach a system for providing personalized information wherein the information related to a user includes at least one of a demographic profile of the identified user and a shopping history of the identified user (*see paragraphs 0032, 0033*).

7. As per claim 47, 72, Drysdale et al teach a system for providing personalized information wherein the user identification system comprises a substrate reader, and the substrate reader is configured to obtain identifying information on the user from a loyalty card provided to the substrate reader by the user (*see paragraphs 0032, 0033*).

8. As per claim 48, 73, Drysdale et al teach a system for providing personalized information wherein the user identification system includes the user interface of the portable display unit, the user interface being configured for a user to enter a personal identification number and associated password into the portable display unit (*see paragraphs 0032, 0033*).

9. As per claim 49, 76, Drysdale et al teach a system for providing personalized information wherein the personalized information includes a personalized shopping list (*see paragraphs 0032, 0033*).

10. As per claim 50, 77, Drysdale et al teach a system for providing personalized information wherein the personalized information further includes information on products on the personalized shopping list that are located in proximity to the location of the portable display unit (*see paragraphs 0032, 0033*).

11. As per claim 51, 75, Drysdale et al teach a system for providing personalized information wherein the information related to a user further includes at least one selected from a group consisting of targeted advertisements, health information, nutritional information, promotional offers, offers on sale items, offers on discounted items, information on similar or associated items, manufacturer's coupons, storewide coupons, information on user specific favorite items, and information on user specific staple items (*see paragraphs 0032, 0033*).

12. As per claim 52, Drysdale et al teach a system for providing personalized information wherein the information related to a user includes the demographic profile of the identified user (*see paragraphs 0032, 0033*).

13. As per claim 53, Drysdale et al teach a system for providing personalized information wherein the demographic profile of the identified user is determined from a questionnaire completed by the identified user (*see paragraphs 0032, 0033*).

14. As per claim 54, Drysdale et al teach a system for providing personalized information wherein the information related to a user includes a shopping history of the identified user (*see paragraphs 0032, 0033*).

15. As per claim 55 and 69, Drysdale et al teach a system for providing personalized information wherein the location tracking system further comprises at least one receiver for receiving a unique identifier transmitted by the portable display unit, a position calculating system for calculating position data relating to a location of the portable display unit in a commercial establishment using the unique identifier of the portable display unit received by the at least one receiver; and at least one controller for transmitting position data relating to the location of the portable display unit generated by the position calculating system to the server computer (*see figs 1, paragraphs 0025-0032*).

16. As per claim 56 and 70, Drysdale et al teach a system for providing personalized information wherein the position calculating system calculates the position data relating to the location of the portable display unit in a commercial establishment by at least one of triangulation techniques or triangulation techniques (*see figs 1, paragraphs 0025-0032*).

17. As per claim 57, Drysdale et al teach a system for providing personalized information wherein the unique identifier of the portable display unit includes a radio frequency (RF) identification signal (*see figs 1, paragraphs 0025-0032*).

18. As per claim 58, Drysdale et al teach a system for providing personalized information wherein the unique identifier of the portable display unit includes an infrared identification signal (*see figs 1, paragraphs 0025-0032*).

19. As per claim 59, Drysdale et al teach a system for providing personalized information wherein the at least one receiver includes a plurality of transponders located at discrete locations throughout a commercial establishment (*see figs 1, paragraphs 0025-0032*).

20. As per claim 60, Drysdale et al teach a system for providing personalized information wherein the at least one receiver includes a plurality of transceivers located at discrete locations throughout a commercial establishment (*see figs 1, paragraphs 0025-0032*).

21. As per claim 61, Drysdale et al teach a system for providing personalized information wherein the at least one transceiver includes a plurality of transceivers located at discrete locations throughout a commercial establishment (*see figs 1, paragraphs 0025-0032*).
22. As per claim 62, Drysdale et al teach a system for providing personalized information wherein the portable display unit comprises a scanning device and the scanning device is configured to read product barcodes scanned by the identified user (*see figs 1, paragraphs 0025-0032*).
23. As per claim 63, 78, Drysdale et al teach a system for providing personalized information wherein the at least one transmitter transmits the personalized information to the portable display unit using a wireless local area net (*see figs 1, paragraphs 0025-0032*).
24. As per claim 64, 79, Drysdale et al teach a system for providing personalized information wherein the portable display unit further includes a microphone and a speaker, the server computer is configured to generate audio signals incorporating the personalized information for a user; and the microprocessor of the portable display unit is configured to play on the speaker the audio signals incorporating the personalized information (*see figs 1, paragraphs 0025-0032*).
25. As per claim 65, 80, Drysdale et al teach a system for providing personalized information wherein the at least one transceiver transmits the personalized information to the portable display unit as a web page using hypertext markup language (*see figs 1, paragraphs 0025-0032*).

26. As per claim 66, Drysdale et al teach a system for providing personalized information wherein the server computer is configured to permit a user to access the Internet using the portable display unit (*see figs 1, paragraphs 0025-0032*).

27. As per claim 67, Drysdale et al teach a system for providing personalized information wherein the transceiver of the portable display unit and the at least one transceiver are wirelessly connected to permit two-way communication between the portable display unit and the server computer (*see figs 1, paragraphs 0025-0032*).

***Conclusion***

28. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

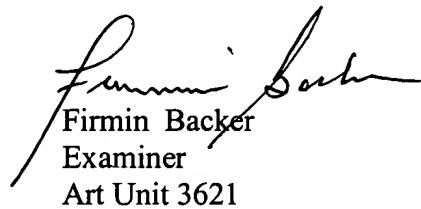
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Firmin Backer whose telephone number is (703) 305-0624. The examiner can normally be reached on Mon-Thu 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Firmin Backer  
Examiner  
Art Unit 3621

March 29, 2004